



APPENDIX I

DIVISION 2. Tree Preservation

Sec. 35-6017-35-6100. [Reserved]

Sec. 35-6101 PURPOSE

While allowing the reasonable improvement of land within the City and City's ETJ, it is stated public policy of the City to maintain, to the greatest extent possible, existing trees within the City and the ETJ, and to add to the tree population within the City and the ETJ. The planting of additional trees and preservation of existing trees in the City and the ETJ is intended to accomplish, where possible, the following objectives.

- (a) To preserve trees as an important public resource enhancing the quality of life and the general welfare of the City and enhancing its unique character and physical, historical, and aesthetic environment.
- (b) To encourage the preservation of trees for the enjoyment of future generations.
- (c) To encourage the preservation of trees to provide health benefits by the cleansing and cooling of the air and contributing to psychological wellness.
- (d) To encourage the preservation of trees to provide economic benefits by adding value to property, and reduction of energy costs through passive solar design utilizing trees.
- (e) To encourage the preservation of trees to provide environmental elements necessary to reduce the amount of pollutants entering streams and to provide elements crucial to establishment of the local ecosystem.
- (f) To provide tree preservation requirements and incentives to exceed those requirements that encourage the maximum preservation of trees.
- (g) To promote and protect the health, safety, and welfare of the public by creating an urban environment that is aesthetically pleasing and that promotes economic development through an enhanced quality of life.

Sec. 35-6102 APPLICABILITY

- (a) The regulations contained in this Division shall apply to any private property located within the city limits of the City of San Antonio and the ETJ of the City that is not the subject of a permit as defined by V.T.C.A., Government Code §481.141 et seq., as of the effective date of this provision.
- (b) The regulations contained in this Division shall apply to all public property held by or for the benefit of the City of San Antonio or any agency, board or commission thereof in accordance with the provisions of Section 35-6120 of this Division.
- (c) This Division shall not apply to:
 - (1) Any protected or heritage tree determined to be diseased, dying or dead, by the City Arborist.
 - (2) Any protected or heritage tree determined to be causing a danger or be in hazardous condition as a result of a natural event such as tornado, storm, flood or other act of God that endangers the public health, welfare or safety, and requires immediate removal.
 - (3) Trees located on property on which construction of single-family, two family, or three family residential dwelling units has been completed.
 - (4) Trees located in the clear vision area, as defined.
- (d) The provisions contained in this Division shall control in the event and to the extent they may conflict with other provisions contained in this Code that do not relate to health and safety.

Sec. 35-6103 SCOPE

- (a) The regulations contained in this Division shall regulate all activities that result or may result in the removal of protected or heritage tree(s) as defined herein. Said activities include any of the following conducted on property to which the Division applies:
 - (1) Industrial, commercial, office, multi-family, residential and institutional development, including all new construction and any additions that increase the total floor area of a structure by more than 2500 square feet.
 - (2) Construction of a new parking lot larger than 2500 square feet or expansion of an existing parking lot by more 2500 square feet.
 - (3) Any grading, filling or clearing of land.
 - (4) Any clear, selective, or individual cutting or removal of any protected or heritage tree(s) as defined.

- (5) Chemical or biological treatment of tree(s) that may result in the death or destruction of any protected or heritage tree(s) as defined.
- (6) Trenching or excavation that may damage or destroy protected or heritage tree(s) as defined.
- (b) The regulations in this Division shall not apply to the clearing of understory necessary to perform boundary surveying of real property or the clearing of underbrush required to conduct tree surveys or inventories. Clearing for surveying may not exceed a width of two (2) feet for general survey (i.e. of easement boundary, etc.) and eight (8) feet for survey of property boundary lines. Except for surveys done in connection with Residential Development, no tree(s) 10" or larger may be removed in any manner during such boundary or general surveying.

Sec. 35-6104 ADMINISTRATION

- (a) The provisions of this Division shall be implemented by a City Arborist under the direction of the Director of Building Inspections. The City Arborist shall oversee regulation of the maintenance and removal of protected and heritage tree(s) that are required to be preserved in the City of San Antonio and the ETJ and shall enforce and administer the provisions of this Division. The City Arborist shall work closely with all City departments and governmental entities and licensees, and franchisees thereof in order to promote and ensure the maximum protection of trees by the implementation and administration of this Division. City departments with which the City Arborist is authorized to interact pursuant to Sec. 35-6120 of this Division include, but are not limited to the following:
 - (1) Planning Department - Coordination of tree preservation in the review of preliminary overall area development plans (for phase development) and any grading, fillings, and spoil activities when applicable.
 - (2) Building Inspections Department - Coordinate and maximize the preservation of trees through the implementation of the City Landscape Ordinance and through the Building Permit Application and Approval process.
 - (3) Public Works Department - Maximize the preservation of trees during Public Works projects for public improvements such as, but not limited to utility installation, street construction and maintenance, drainage construction and maintenance, grading, filling, placement of soil, etc. and coordinate any projects that modify natural drainage areas in a way that negatively affects trees on private property or public property.
 - (4) San Antonio Water System - The Arborist shall review any policies related to trees.
 - (5) City Public Service Board - The Arborist shall review any policies related to trees.

- (6) Parks and Recreation - Maximize the preservation of trees during Parks and Recreation Capital Improvement projects and programming the use of the Tree Mitigation and Replacement Fund.
- (7) Any other entities which may require easements or right-of-ways. The Arborist shall review any policies related to trees.
- (b) The Director of Parks and Recreation shall be responsible for administering the Tree Mitigation and Replacement Fund as established by Section 35-6112 of this Division.

Sec. 35-6105 VIOLATION, ENFORCEMENT AND PENALTIES (INSIDE CITY LIMITS)

- (a) It shall be a violation of this Division for any person to intentionally or knowingly remove or destroy, or allow the removal or destruction of a protected or heritage tree(s) located on any property to which this Division applies, or for any person to knowingly or intentionally perform any regulated activity in a manner that does not conform to the requirements of this Division. Any act or omission contrary to the requirements or directives of this Division, or any breach of any duty imposed by this Division shall constitute a violation hereof.
- (b) In addition to enforcement by the City Arborist, this Division shall be enforceable by and pursuant to the authority provided in Article I, Division 2, of this chapter.
- (c) Any person who commits a violation of this Division shall be subject to a civil penalty of up to \$1,000 per violation or a criminal penalty of up to \$200 per violation per day. For the purpose of calculating penalties, each day on which a violation is found to exist shall constitute a separate and sanctionable offense.

**VIOLATION, ENFORCEMENT AND PENALTIES
(OUTSIDE CITY LIMITS)**

- (d) Whenever a violation of this Division is believed to have occurred or to be occurring outside the corporate limits of the City of San Antonio but within the City's ETJ, criminal penalties shall not be sought, however, enforcement against such violations is hereby authorized pursuant to and under the authority granted by V.T.C.A., Texas Local Government Code § 212.001 et. seq.

Sec. 35-6106 PERMIT REQUIRED

- (a) A valid application for permit must be filed with the City Arborist, and a permit must be received from the City Arborist before any protected or heritage tree(s) that are required to be counted for calculating minimum tree preservation

percentages may be mitigated, removed or destroyed, or before an individual conducts a regulated activity, as defined in Sec. 35-6103 (a), on property subject to this Division that may result in the removal or destruction of any such tree.

- (b) The above paragraph notwithstanding, application for a receipt of a tree preservation permit shall not be a condition of requesting or obtaining other permits, except buildings permits for construction on property where one or more protected trees are located, or approvals required by this chapter if the applicant, for the approval or permit, verifies (by affidavit), and payment of applicable fees, that removal or destruction of protected or heritage trees required to be counted for calculating minimum tree preservation requirements will not occur as a result of the application for or receipt of the permit or approval requested.
- (c) For single family residential developments the application and permit requirements of paragraph A shall apply to the developer to the extent the developer will be removing protected trees that are required to be counted for the purpose of calculating minimum tree preservation from lots within the development. In the event the developer conveys a lot or lots to home builders, the home builder must obtain the permit required by paragraph (a) for the lot or lots on which such trees will be removed by the builder within the development. To assure compliance with this Division, each permit holder within a single family residential development shall provide the survey required by this Division (site plan) on a lot by lot basis together with a summary sheet providing cumulative information on the total protected trees existing and removed within the surveyed area(s) and the total mitigation trees planted or trees smaller than the protected tree size preserved on the lot(s) that are identified in the permit.

Sec. 35-6107 EXPIRATION OF PERMITS AND APPROVED SURVEYS/ PRESERVATION PLANS

A tree preservation permit shall remain valid for the longer of:

- (a) The period of validity of the permit or authorization that triggered the requirement for obtaining the tree preservation permit (i.e. building permit, plat, etc.); or
- (b) 180 days from the date of issuance if the tree preservation permit was obtained solely for the removal of trees and not in conjunction with the application for or receipt of a separate permit or authorization.

Sec. 35-6108 AMENDMENTS TO APPROVED TREE PRESERVATION SITE PLANS

Notification and approval of the City Arborist are required if changes need to be made to an approved tree preservation plan. Approval of the changes must be received from the

City Arborist, in writing, before commencement of any work that is the subject of the change or field adjustment.

Sec. 34-6109 POSTING REQUIREMENTS

It shall be the responsibility of the permit holder to maintain a copy of the tree preservation permit, the data and drawings required by this Division, and the conditions of approval imposed by the City Arborist on file at all times during which the authorized work is in progress.

Sec. 35-6110 APPLICATION AND SURVEY REQUIREMENTS

(a) Unless an affidavit is provided as allowed by Sec. 35-6106 of this Division, an application for a tree protection permit will not be considered filed until the following information is submitted to the City Arborist:

- (1) Information required on the application form promulgated by the City Arborist and payment of all applicable fees;
- (2) A tree survey of the subject area/property under one of the following criteria, dependent on type of development:

a. SINGLE FAMILY RESIDENTIAL TREE SURVEY:

1. *For contiguously developed lots* located inside the City limits the developer or property owner must provide a tree survey of the area contained in the front and rear yard set backs, as established in Sec. 35-3351 of this Code, of the lots that are to be made ready for construction. For such lots located outside the City limits but in the ETJ, the developer or property owner must provide a tree survey of that portion of the front and rear yard(s) within 20' of the front and rear property lines, respectively. However, the tree survey is not required to include the area located within easements.
2. *For individually developed lots* located inside the City limits the developer or property owner must provide a tree survey of the area contained in the front, rear, and side yard set backs, as established in Sec. 35-3351 of this Code, of the lots that are to be made ready for construction. For such lots located outside the City limits but in the ETJ, the developer or property owner must provide a tree survey of that portion of the side yards, within 5' from the respective side property line and of that portion of the front and rear yard(s) within 20' of the front and rear property lines, respectively. However, the tree survey is not required to include the area located within easements.
3. The tree survey required by this subsection shall, at a minimum, provide the following:

- (i) the location and size in diameter inches of each protected and/or heritage tree (and significant stands at the discretion of the applicant) located in the rear yard, front yard, and side yard setbacks (as applicable) of each lot or contiguous lots for which a tree removal permit is requested (and parkway trees as defined); and
- (ii) the existing and/or proposed topographical information, easements, rights-of-way, set backs, parkways, and property lines; and
- (iii) the location and size of each existing or proposed tree or groups of trees that will be relied on by the applicant for mitigation. To qualify as a mitigation tree the trunk diameter must be 2 1/2" measured 6" from grade, or larger; and
- (iv) a summary table indicating the total number, diameter inches, and species of protected trees and protected trees to be removed within the surveyed area and the total number and caliper inches of mitigation trees to be planted or alternative mitigation trees to be saved and maintained; and
- (v) location of all existing and proposed structures, utilities, paved areas, and sidewalks, to the extent such information is available.

b. MULTIFAMILY RESIDENTIAL , COMMERCIAL and OTHER DEVELOPMENT: For properties that are to be used for development of multifamily, commercial, industrial and other uses a tree survey must be performed on the subject property that, at a minimum, shall contain the following information:

- 1. the location and size in diameter inches of each protected tree (and significant stands at the discretion of the applicant) or larger that is located within the site (and parkway trees as defined) except for trees located in those areas over which:
 - (i) an easement or right of way exists or will exist after platting; and
 - (ii) the footprint of any proposed multifamily residential structures or enclosed or covered commercial, retail, industrial or institutional building(s). (Paved areas for parking facilities are not included as a building).
- 2. the location and size of each existing or proposed tree or groups of trees that will be relied on by the applicant for mitigation. To

qualify as a mitigation tree the trunk diameter must be 2 1/2" measured 6" from grade, or larger; and

3. tree protection notes, details and specifications; and
 3. a summary table indicating the total number, diameter inches, and species of protected trees and protected trees to be removed within the surveyed area, and the total number and caliper inches of mitigation trees to be planted or alternative mitigation trees to be saved and maintained; and
 5. a written statement by the applicant explaining the purpose for the requested tree removal; and
 6. Location of all existing and proposed structures, utilities, paved areas, sidewalks, to the extent such information is known; and
 7. the existing and/or proposed topographical information, easements, rights-of-way, set backs, parkways, and property lines.
- (b) In addition to the information required in paragraph A above, an application for tree removal permit which is filed in conjunction with construction (other than single family residential) to be performed on property must also include the following:
- (1) Proposed location of all paved areas, set-backs and easements properly dimensioned and referenced to property lines; and
 - (2) Location of all existing and proposed structures, utilities, curbing, sidewalks, and other facilities to be built; and
 - (3) Proposed site elevations or contours around all protected, heritage, or mitigation trees, when the change in grade is more than 12" within linear distance of 24" of such tree.
- (c) All tree preservation plans, surveys, and/or drawings shall be submitted in the form required by City Arborist and shall contain and provide tree protection notes, details and specifications clearly indicating the trees which will remain and the trees which are to be removed.
- (d) A field inspection of the site by the City Arborist should be required during the application process and prior to the issuance of a permit; however, once a final application has been submitted, the application will be deemed approved if not acted upon within fifteen (15) working days.
- (e) The tree permit application, tree preservation plan and other data that may be filed by an applicant shall be reviewed by the City Arborist. If the City Arborist finds that the work described in the application for a permit and the plans and other data

conforms to the requirements of this Division and that the fees have been paid by the applicant, the City Arborist shall issue a tree removal permit to the applicant.

- (f) The landscape plan required by Division 1 of this article may be combined with the tree survey required by this Division at the discretion of the applicant. When a combined plan is submitted it shall be sufficient for satisfying the requirements of both Division 1 and Division 2 of this Article. The Building Official responsible for the review and approval of the landscape requirements of Division 1 of this article to the extent, and if, authorized by the City Arborist may also provide the review and approvals needed for compliance with this Division. All items identified in the data and drawings used in combined plans shall clearly indicate whether they are to be applied to satisfy the requirements of this Division or Division 1 of this Article (landscaping), or if they are intended to satisfy the requirements of both Divisions if allowed.
- (g) As provided by Division 4, Subdivision C Sidewalks provides the Director of Public Works may grant a waiver to the requirements in this section.
- (h) If an application is denied because it fails to meet the requirements of this Division, the City Arborist will notify the applicant of such action and provide a written statement of the rationale for the denial.

Sec. 35-6111 MINIMUM TREE PRESERVATION REQUIREMENTS

- (a) A minimum of all protected trees within the surveyed area must be preserved in the following manner:
 - (1) **Single-Family Residential:**
 - **50% of all diameter inches of protected trees** (10” or larger in diameter) as required to be shown according to the survey criteria for contiguous lot construction according to Sec. 35-6110 (a)(2)a. of this Division; or
 - **45% of all diameter inches of protected trees** (10” or larger in diameter) as required to be shown according to the survey criteria for individual lot (custom home) construction according to Sec. 35-6110 (a)(2)a. of this Division.
 - Trees located within the permitted building area, easements, public roads, public alleys, and right-of-ways will not be included in calculating the percentage of protected trees (10” or larger) that must be preserved.
 - (2) **Multi-Family Residential:**
 - **30% of all diameter inches of protected trees** (10” or larger in diameter) within the area included in the tree survey; or

- **25% of all diameter inches of protected trees** (8” or larger in diameter) within the area included in the tree survey.
- Trees located within the building footprint (dwelling, administration, office, laundry, and postal buildings only), easements, parking garages (excluding stand alone canopies), public roads, public alleys, and right-of-ways will not be included in calculating the percentage of protected trees that must be preserved.

(3) **Commercial/All other building types:**

- **30% of all diameter inches of protected trees** (10” or larger in diameter) within the area included in the tree survey; or
- **25% of all diameter inches of protected trees** (8” or larger in diameter) within the area included in the tree survey.
- Trees located within the building footprint (enclosed and/or covered area only, excluding stand alone canopies), easements, parking garages, public roads, public alleys, and right-of-ways will not be included in calculating the percentage of protected trees that must be preserved.

- (b) Protected trees that are required to be preserved are to be mitigated at a ratio of 1” of mitigation for any 1” of removed tree.
- (c) As the particular site conditions warrant, the applicant shall make a reasonable effort to preserve a diversity of species of trees as determined by the Arborist.
- (d) No heritage tree may be removed or destroyed within the surveyed area unless it is mitigated at a ratio of 2” of mitigation for every 1” of heritage tree removed.
- (e) The location of all proposed buildings and improvements should be oriented by the applicant, to the extent the applicant determines possible, in a manner which allows for the saving of the greatest number of trees. However, all trees located in the proposed footprint of a building, and other exclusions, are not required to be counted toward the total number of on-site trees for the purpose of calculating the minimum preservation percentage required in subparagraph (a) above. Trees located within the existing right-of-way and public easements shall not be counted as it pertains to the minimum preservation percentage. Applicants are encouraged however, to preserve trees and place mitigated trees and any trees needed to meet the Landscape Ordinance requirements in right-of-ways adjacent to public roads if deemed appropriate by the Arborist and any other agencies having jurisdiction over said easements and right-of-ways.
- (f) Unless otherwise allowed by this Division, trees of a protected size or larger located within existing rights-of-way or easements may be removed only if prior approval is granted by the City Arborist.

- (g) Corridor Trees: Where possible a minimum of 1 tree should be provided for each 50 feet of street frontage. These trees should be located within 30 feet of the projected street curb. The trees may be located in the public right-of-way.. For purposes of this paragraph, “projected street curb” means the future location of the street curb consistent with the city Major Thoroughfare Plan as determined by the Director of Public Works. As an incentive to preserve trees in the parkway, the applicant may receive either Landscape credits (at a ratio of one point per diameter inch) and/or may use the total diameter inches of parkway trees saved to go towards meeting the minimum tree preservation requirements.
- (h) In order to protect Historic Trees, as defined, the City Arborist shall defer the approval of tree preservation plans to review by the Director of Building Inspections who shall seek the advice of the Historic Design and Review Commission, in instances where a Historic Tree(s) is proposed to be removed. The Commission may recommend additional replacement standards, recommend a cash payment to be deposited to the tree replacement fund to offset the cost of future tree planting on public property, or recommend that the application for permit and tree preservation plan be denied. Provided, however that no later than 30 days after the final application for removal of the heritage tree was received, the Director of Building Inspection shall advise the applicant by certified mail, return requested, or hand delivery of his decision. The final application will be deemed approved if not acted upon by the Director before the expiration of the 30 day time period herein established. Such action may be appealed pursuant to Sec. 35-6118 (e) and (f) of this Division.
- (i) All percentages relating to preservation stated within this article shall be based the initial tree survey. Any subsequent redevelopment of property must minimally preserve the applicable percentage of the total diameter inches of protected trees as indicated by the initial tree survey.

Sec. 35-6112 MITIGATION/ ALTERNATIVE MITIGATION METHODS

Protected trees may be removed in excess of the minimum preservation requirement contained in Sec. 35-6111 provided the excess removal is properly mitigated. However, at least 10% of the total diameter inches within the surveyed area may not be mitigated, and must actually be preserved.

If mitigation is required to compensate for removing trees in excess of the number of diameter inches allowed to be removed within the to be calculated for tree preservation under the minimum preservation requirements, the mitigation may be achieved in one of the following ways:

- (a) Establishment and maintenance of new trees at the required ratio on-site under the following guidelines:

(See Section 35-6111(a) for minimum preservation requirements)

- (1) Protected trees shall be mitigated at a ratio of one (1) caliper inches per one (1) diameter inch removed.
 - (2) Heritage trees shall be mitigated at a ratio of two (2) caliper inches per one (1) diameter inch removed.
 - (3) Whenever protected and heritage trees are mitigated, no more than 25% of the replacement trees should be of the same species.
 - (4) In considering recommending a replacement tree, the City Arborist may weigh the value of smaller trees, clumps of trees, and natural vegetation that is to be retained on the site and/or added according to a landscape plan in compliance with the landscape ordinance, with greater weight going to retention of existing trees and vegetation. Agreement by the applicant to retain or add such trees and vegetation may satisfy the Arborist's concern to the extent that he would agree not to recommend a replacement tree as a condition for approval. For these reasons, indiscriminate clearing of sites where protected trees are located should be discouraged; or
- (b) Payment to the tree mitigation and replacement fund as provided in this code; or
 - (c) Use of Tree Preservation Credits (in inches) according to the required ratio, provided the Credits have been issued pursuant to Sec. 35-6113 (a) (1) of this Division (*Note: Tree preservation Credits issued pursuant to this Division may be used to satisfy no more than 80% of the minimum preservation requirements of Sec. 35-6130 as applied to the subject development*); or
 - (d) Protection and maintenance of existing trees within the surveyed area that are smaller than the size requirements for a Protected Tree but at least 2 1/2 inches in diameter measured four and one half feet (4 1/2') from the ground.

Sec. 35-6113 TREE PRESERVATION INCENTIVES

- (a) An individual may apply for, and subject to verification, shall receive incentives for tree preservation as follows:
 - (1) Tree Preservation Credits -- Upon application, and payment of applicable fees, and after verification, the City Arborist shall provide a certificate of credit for the number of diameter inches of trees preserved by an individual in excess of the minimum preservation requirements of Sec. 35-6111, or for trees that are permanently established or protected on property that is located within the City Limits or within the City's ETJ, but that is not subject to regulation by this Division.. The certificate of credit may be used to meet tree preservation requirements on site or may be assigned to another site for the purpose of meeting minimum tree preservation requirements. Credits issued under this provision are assignable by the holder thereof. However, the City Arborist may not issue a certificate of tree credits until the applicant for tree credits submits to the Arborist a duly

executed Conservation Easement meeting the requirements of and enforceable in accordance with V.T.C.A., Natural Resources Code §183.001 et seq., that:

- restrict the removal of and provide protection of the trees that are the subject of the applicant's request for credits;
- identify the trees that have been protected by use of a plat, drawing, tree survey or other document that provides sufficient identification of the location, size, and species of the protected trees.
- require the trees protected by the easements to be mitigated if intentionally removed at a ratio of 2" of mitigation for 1" of protected tree removed.

Each certificate of Credit issued will be sequentially numbered and will be issued on a type of paper of unique nature. The City Arborist will retain a log of each certificate issued, to whom it was given, the date of issuance, the number of inches credited, and other relevant information.

- (2) Parking Space Reduction -- Upon application and verification by the City Arborist, an individual shall be entitled to a reduction in the minimum parking requirements of Sec. 35-3366 of this Code to help meet the minimum tree preservation requirements. For the purpose of providing an incentive, the said minimum parking requirements of Sec. 35-3366 of this Code may be reduced by one parking space for every 4 caliper inches of trees that have been protected or mitigated on a site. The City Arborist shall issue a certificate to the appropriate City Department(s) confirming that a reduction has been earned under this section. Up to 15% of the required spaces may be waived, however, a waiver in excess of 15% of the required spaces must be approved by the Director of Public Works or his designee, and no waiver may exceed 30% of the required spaces. If used, the incentive provided by this sub-section shall control over any other conflicting provision of this Code. In order to promote placing trees in the parking field to provide additional cooling and shade benefits it is suggested that the developer attempt to place a portion of the preserved and/or mitigation trees in the interior of the parking areas at a ratio of one tree for every 15 parking spaces, and attempt to have no parking space further than 80 feet from any tree (this sentence is intended to provide guidance only, compliance with this sentence is not mandatory).
- (3) Landscape Credits -- Upon application to and verification by the City Arborist, an individual shall be entitled to utilize points toward the minimum point requirement established by Division 1 of this article under the following criteria.

- a. No more than 40 points of the required 60 points may be earned to satisfy the requirements of Section 35-6008 through tree preservation, excluding mitigation;
- b. For every diameter inch of tree preserved, excluding mitigation, points will be earned at the following rates:

1.0 point per diameter inch for trees in the buffer zone

.75 point per diameter inch for trees in street yard

.50 point per diameter inch for trees outside the street yard.

(Note: Only diameter inches of existing trees that are smaller than the protected tree size preserved on site may be used for gaining credits under this incentive, mitigation achieved by payment to the mitigation fund, by the planting of new trees, or by using Tree Preservation Credits will not qualify for landscape credits.)

- (4) With approval of the City Arborist, preservation of native understory plants together with trees grouped in significant stands may result in a reduction of the landscape requirements by the number of points determined by the Arborist. Emphasis is on the preservation of said significant stands and accompanying native understory plants and therefore, the smaller tree diameters may be counted one for one in terms of meeting the minimum tree preservation requirements. It is at the discretion of the Arborist as to the maximum number of trees, less than the protected tree size, that may be allowed to be used for obtaining additional landscape points under this incentive.
- (5) The City Arborist shall assist those who wish a site certified under the Texas Parks and Wildlife, Texas Wildscape Program in lieu of meeting City requirements in this Division as long as 20% of existing trees on site are preserved.

Sec. 35-6114 ROOT PROTECTION REQUIREMENTS

- (a) Unless a Developer or property owner chooses to provide the warranty required in subsection (b) of this section, a root protection zone must be established around the trunk of each tree preserved or mitigation tree planted pursuant to this Division. The root protection zone shall be an area defined by an average radius extending outward from the trunk of the tree a distance of 1/2 linear foot for each inch (DBH) of the subject tree. The maximum size of a root protection zone required by this Division shall not exceed 1000 square feet for any tree or trees located within the same root protection zone. The area contained within a root protection zone required under this subsection must be left in an pervious condition after construction and development are completed. The impervious

cover may encroach within the root protection zone if said encroachment is approved by the City Arborist.

- (b) In the event a Developer or Property owner provides a letter of warranty to the City Arborist warranting the life of a tree or tree(s) for a period of three (3) years from the date a tree preservation permit was issued pursuant to this Division, the Property owner or Developer may utilize a root protection zone smaller than the Root Protection Zone smaller than the size required by subsection (a) of this Section. In the event the tree(s) warranted under this section die within the warranty period, the applicant will be required to replace the dead tree(s) within 90 days from being notified by the City Arborist that the tree has died.
- (c) The requirements contained in subsections (a) and (b) of this section shall not apply to single family residential developments. The root protection area for single family residential lots shall be the same area contained in the front and rear yard set backs of such lots.

Sec. 35-6115 TREE PROTECTION

- (a) A protection barrier should be erected at the edge of the Root Protection Zone, however, at a minimum, the barrier shall be erected a distance of 60" around the trunk(s) of individual protected, heritage or mitigation trees or islands of such trees and understory and maintained until construction is completed. This protective barrier may be comprised of snow fencing, vinyl construction fencing, chain link, geotextile material, or other similar sturdy material.
- (b) During construction, no excess soil, additional fill, equipment, liquids, or construction debris shall be placed inside the protective barrier nor shall any soil be removed within the barrier.
- (c) Except for single family residential development, the proposed finished grade within the root protection zone of any tree to be preserved shall not be raised or lowered more than three (3) inches, but welling and retaining methods may be used to protect and/or provide lateral support to the area outside the root protection zone.
- (d) All broken branches and exposed roots of a mitigation, protected or heritage trees shall be cut cleanly. In the case of oak species, in order to prevent infection by oak wilt spores, wounds must be painted with an acceptable wound dressing within reasonable time as determined by the City Arborist
- (e) The root protection zone for each preserved tree must remain unpaved unless approval has been given by the City Arborist. The Arborist shall establish a written set of technical criteria on which such approval shall be based.
- (f) During construction activity on the site, at least six (6) inch layer of a coarse mulch shall be placed and maintained over the root protection zone.

Sec. 35-6116 GENERAL MAINTENANCE

- (a) Heritage, protected or mitigation trees must be maintained in a healthy condition at all times. The property owner is responsible for irrigating, fertilizing, pruning, and other maintenance of all trees as needed.
- (b) Except for residential development, mitigation trees that are planted on the property and that die within twelve (12) months of final inspection are subject to the mitigation requirements set forth in Sec. 35-6112 at a ratio of 1" mitigation for every 1" of protected or heritage tree that dies. However, a heritage tree that dies from other than natural causes shall be mitigated at a ratio of 2" mitigation for every 1" of heritage tree. Any tree that dies must be replaced with another living tree of the same category type or better within ninety (90) days after notification by the City. The Building Official may extend this time period up to an additional ninety (90) days due to weather considerations. If the plants have not been replaced after appropriate notification and/or extension, the property owner shall be in violation of this ordinance.
- (c) If a public utility disturbs trees, it shall make every reasonable effort to preserve the trees and return them to their prior location and condition after the utility work is completed. If nonetheless, trees die, replacement is not the responsibility of the property owner if the death or destruction of the tree(s) is due to the action of a public utility.

Sec. 34-6117 GENERAL PLANTING STANDARDS

- (a) No artificial plant materials may be used to satisfy requirements of this article.
- (b) Plant materials required by this article must comply with the following minimum size requirements at the time of installation.
 - (1) In satisfying the requirements of this article, the use of mulch material shall be provided at the time of planting.
 - (2) Each replacement tree must be planted at least thirty (30) inches away from any impervious surface.
 - (3) Plant areas must be protected from vehicular traffic through the use of concrete curbs, wheel stops, or other permanent barriers.
 - (4) Mitigation or replacement trees required by this Division; must have a minimum diameter of two and one half (2 1/2") inches measured 6" above grade at the time of installation and, shall be planted in a pervious area of at least 100 square feet

Sec. 35-6118 VARIANCE PROCEDURE

- (a) Variances. Variances to the terms and requirements of this Division may be granted by the City Arborist where a literal enforcement of the provisions of this Division will result in an unnecessary hardship. No variance may be granted unless:
- (1) Such variance will not be contrary to public interest;
 - (2) Such variance will be in harmony with the spirit and purpose of this Division;
 - (3) The variance will not substantially weaken the general purposes of this Division or the regulations herein established for the protection of trees; and
 - (4) The variance granted is limited in scope of relief to only that which is necessary to relieve the hardship condition.
- (b) Request for Variance. A person who feels they qualify for a variance, under the conditions outlined in subsection (a) above, from the literal application of this Division to their property may request a variance from such application of one or more of the provisions of this Division. All requests for variances shall be made in writing to the City Arborist, and shall include:
- (1) the subject of the requested variance; and
 - (2) the justification for granting a variance.
- (c) Burden. The party requesting a variance has the burden of demonstrating that sufficient evidence exists for the granting of a variance to application of this Division. The City Arborist shall consider and provide a written response to all such requests for variances as quickly as possible but not more than fifteen (15) working days from the date a valid request for variance is received. The response shall be served by certified mail, return receipt requested, or by hand delivery.
- (d) If Granted. If a variance is granted as requested, or with modification, the recipient of the variance may develop their property according to all applicable provisions of this Division, to the extent such provisions have not been waived or modified by the variance.
- (e) Appeal. Any person who properly requests a variance pursuant to this section, and objects to the decision of the City Arborist which denies all or part of the relief requested may appeal such denial to the Director of Building Inspections or his designee by filing a request for appeal within ten (10) working days from the date notice of denial is received by the requesting party. All such appeals shall be made in writing to the Office of the Director of Building Inspections and shall include all pertinent information which the person requesting the appeal wishes to be

considered. The Director of Building Inspections may require additional information from or request a meeting with the person making the appeal. The written decision of the Director of Building Inspections, or authorized designee, on the appeal shall be rendered within fifteen (15) working days and shall be delivered to the appealing party by certified mail, return requested, or by hand delivery. If the Director of Building Inspections or authorized Designee fails to render an opinion on the appeal within the fifteen (15) day period, the relief requested in the appeal shall be granted.

- (f) Planning Commission. If the Director of Building Inspections denies all or part of the relief requested in an appeal, the aggrieved party may appeal to Planning Commission by filing a notice of appeal with the Office of the City Clerk for the City of San Antonio no later than the (10) tenth working day following the party's receipt of the written decision of the Director of Building Inspections. A true and correct copy of the notice of final appeal must also be filed with the office of the Director of Building Inspections who upon receipt of such notice, shall immediately transfer copies of all documents and information relevant to the appeal to the Executive Secretary to the Planning Commission. The Executive Secretary of the Planning Commission shall schedule the hearing of the appeal at the earliest available regularly scheduled meeting of the Planning Commission which will allow compliance with the requirements of the Texas Open Meetings Act.
- (g) A decision of the Planning commission that is adverse to the applicant shall be appealable by the applicant to the City Council for final action by filing a notice of final appeal with the Office of the City Clerk no later than the tenth (10) working day following the party's receipt of the written decision of the Planning Commission. The City Clerk shall schedule the hearing of final appeal at the next available regularly scheduled meeting of the City Council which will allow compliance with the requirements of the Texas Open Meetings Act.
- (h) Where this division requires either the City or applicant to respond, or take other action, within a specific number of days, such calculation shall begin on the first working day after the date of receipt of the information that necessitated response or action.

Sec. 35-6119 TREE MITIGATION/REPLACEMENT FUND

- (a) The Director of Finance is hereby directed to establish a dedicated Account to be entitled Tree Mitigation and Replacement Fund (hereinafter the "Fund").
- (b) Sec. 35-6105 of this Division provides for sections imposing civil penalties in addition to criminal penalties. Civil penalties collected pursuant to such section shall be recorded in the Fund created pursuant to this Section, unless expressly prohibited by law. Likewise, all funds received from the payment of mitigation fees pursuant to Sec. 35-6112 shall be recorded in the Fund.
- (c) Use of funds. The funds collected from civil penalties and mitigation fees in the Fund shall be utilized to pay for the planting and maintenance of trees, the funding of tree preservation and planting programs to be administered by the Parks and

Recreation Department. The Parks and Recreation Director shall seek the advice of the Open Space Advisory Board in regard to the selection of projects to be funded. A portion of the fund may be used, on an annual basis, to fund activities directed towards educating school age children on the importance of trees in the environment, ecological issues, and pollution prevention.

- (d) Funds To Be Kept Separate. The balance within the Fund shall be recorded and accounted for in a manner that distinguishes them from other general funds of the City and shall be disbursed in a manner which is consistent with the purposes for which this Fund has been established. The balance of this fund shall not be transferred to the General Fund at the end of each budget year, but rather, the balance remaining in the fund at the close of the City's fiscal year shall roll over and become the beginning balance for the next fiscal year.

Sec. 35-6120 PUBLIC PROPERTY

- (a) The Director of Public Works, in coordination with the City Arborist, shall approve an application for the removal of a protected tree in connection with construction, maintenance, or repair of public facilities in or above a public street, alley, right-of-way, easement, or other public land under one or more of the following conditions:
 - (1) The location of the tree prevents the opening of reasonable and necessary vehicular traffic lanes in a street or alley.
 - (2) The location of the tree prevents the construction or maintenance of utility lines or drainage facilities which may not be reasonably rerouted.
 - (3) The location of the tree prevents all reasonable access to the property.
 - (4) Denial of the application would deny the affected governmental entity the reasonable use of public property for the achievement of its public purpose.
 - (5) The City Arborist shall not later than twelve (12) months after the effective date of this ordinance report to the Planning Commission in regard to compliance with applicable provisions of this ordinance by governmental entities subject to its provisions.
- (b) It is understood that although local governmental entities and utility companies are not under the auspices of the tree preservation ordinance per se, every effort will be made by the above mentioned organizations to consult with the City Arborist before any such construction activity takes place. Special attention will be given to the preservation of trees in right-of-ways that are along public roads so as to help in satisfying the objectives of the corridor tree section of this ordinance. For above ground utility poles adjacent to public roads and alleys and sides of property which abut adjacent residential areas, the easement below will be carefully studied so as to allow for the maximum preservation of trees.

Sec. 35-6121 COMPUTATION OF TIME

In computing any period of time prescribed or allowed by this division, the day of the notice or final application, after which the designated period of time begins to run is not to be included. Further, the last day is to be included unless it is not a City working day, in which event the period runs until the next City working day.

“APPENDIX II”

Sec. 35-6016 DEFINITIONS

The following words and phrases shall have the following meaning as used in the interpreting, administrating and enforcing of this Division.

Artificial lot:

An Area within a building site that is delineated by the building official for the sole purpose of satisfying the requirements of this article.

Buffer zone:

The area on a commercial lot located between the rear of the commercial building(s) and the rear lot line of the property.

Building official:

The director of building inspections or his designated representative.

Building site:

The lot or portion of a lot which is designated on the building permit application and any existing buildings and appurtenant parking on the lot; or if designated, an artificial lot contained therein and delineated by the building official.

Caliper:

The following definition shall apply only to division one:

The minimum diameter of a tree measured six (6) inches above the root collar for trees up to and including four (4) inches in diameter; twelve (12) inches above the root collar for trees having a diameter greater than four (4) inches and up to twelve (12) inches; and four and one-half (4.5) feet above the root collar for trees having a diameter larger than twelve (12) inches.

The following definition shall only apply to division two:

The average cross-sectional measurement of the trunk of a newly planted tree at 6” above grade.

City Arborist:

An individual employed by the City of San Antonio who is responsible for the administration and overseeing of Chapter 35, Article 6, Division 2 of the San Antonio City Code. The individual shall have appropriate educational experience, credentials, and work

experience as well as practical experience that qualify the individual for performance of his or her necessary responsibilities.

Clear vision area:

The triangular area adjacent to the intersection of any street within which no obstruction may be placed which would block the sight lines for vehicular traffic. The triangle is established in accordance with section 35-3339 and Exhibit G of this chapter.

Corridor trees:

Those trees established within the parkway, as defined, on property pursuant to Section 35-6111(g).

Diameter Breast Height (DBH) or Diameter Inches:

The average cross-sectional measurement of the trunk of an existing tree at 4-1/2' above grade. If the tree is on a slope, it shall be measured from the high side of the slope. Newly planted trees shall be measured 6" above grade.

Heritage tree:

A tree, of any species, having a trunk size of thirty inches (30") DBH or larger.

Historic Tree:

A tree that has been officially found by the San Antonio City Council to be of a Character (age, size, species or historic association), and /or to have had a role in local, state or federal historical events that warrant its protection.

Large shrub:

Any plant, deciduous or evergreen, which is generally multi-stemmed and reaches a height of six (6) feet or more upon maturity.

Large tree:

A tree of a species which normally reaches a height of thirty (30) feet or more upon maturity.

Mitigation tree:

A tree used for the purpose of mitigating the destruction or removal of a protected or heritage tree pursuant to the requirements of Division 2 of this Article. A mitigation tree must have a trunk size of at least two and one half inches (2 1/2") measured at six inches (6") above grade for single trunk species trees or one and one half inches (1 1/2") measured at six inches (6") above grade for multi-trunk species trees. In the case of multi-trunked species trees, a tree will be qualified as a mitigation tree based on the measured diameter of the largest of the existing trunks at 6" together with 1/2 of the measured diameter of the remaining trunks at the same height.

Mulch:

Non-living organic and inorganic materials customarily used in landscape design to retard erosion, retain moisture, maintain even soil temperature, control weeds, and enrich the soil.

Multi-trunk Tree:

A tree having 2 or more main trunks arising from the root collar or from the main trunk..

Parkway:

The area located within public right of way between the outer curbline and the adjacent property line.

Parkway Tree:

Trees 10" or larger located within the Parkway that may be used for meeting tree preservation requirements and landscape requirements, but are not required to be counted in calculating the minimum tree preservation percentage.

Property owner:

The person, entity, corporation, or partnership in whose name a certificate of occupancy issued, or the current owner of the property if a certificate of occupancy is no longer valid, or if the current owner cannot be contacted after due diligence, the lessee/occupant of the property who is in apparent control of such property.

Protected tree:

A Tree, of any species, having a trunk size equal to or larger than the size (8" or 10" DBH) associated with a particular minimum tree preservation percentage (25%, 30%, 45%, or 50%), for residential, multi-family, commercial, or other type of development as set forth in Sec. 35-6127 of Division 2 of this Article. For multi trunk species, this measurement will be based on the measured diameter of the main trunk taken 4 1/2' above grade together with 1/2 of the diameter of the remaining trunks measured at the same height.

Root collar:

An encircling structure of swollen tissue or a marked color change (from the tree bark) located at the highest part of the root system joining into the trunk of a tree at or slightly below the surrounding soil line.

Root Protection Area:

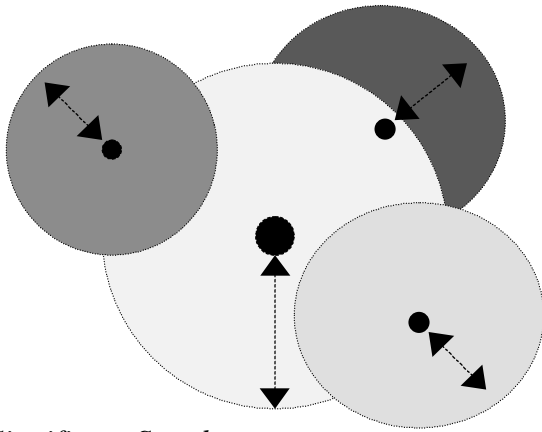
An area in which limited construction may take place for the purposes of establishing sidewalks, driveways, utility connections, sodding, and landscaping within single family, two family, and three family development.

Root Protection Zone:

~~An area with a radius of one (1) foot for each inch of trunk diameter measured at four and one half (4.5) feet, at the point where the smallest diameter closest to the branching occurs. The zone need not be exactly centered around the tree or circular in shape, but it should be positioned so that no disturbance occurs closer to the tree than one half the radius of the zone or within five (5) feet of the tree whichever is less. For any tree, the zone need not exceed tow thousand (2,000) square feet in size.~~

An area with a radius of one half foot (1/2') for each inch DBH of trunk, or if branching occurs at 4-1/2", the diameter is measured at the point where the smallest diameter closest to the branching occurs. The zone need not be exactly centered around the tree or circular in shape, but it should be positioned so that no disturbance occurs closer to the tree than

one-half of the radius of the zone or within five feet of the tree, whichever is less. For any tree or groups of trees, the zone need not exceed one thousand (1,000) square feet in size. The radial root protection zones of trees may overlap one another so that the area of protection required for one tree may be shared by the area of protection required for another tree to minimize the total square footage of protected area where possible.



Significant Stand:

A clustering of at least three (3) trees, of two and one-half inches (2-1/2") of caliper or greater in size and trunks spaced at no greater than ten foot (10') intervals. The City Arborist may extend the spacing interval if it will assist in the preservation of a stand of greater area.

Small tree:

A tree of a species which normally reaches a height of less than thirty (30) feet upon maturity.

Street yard:

The area of a lot which lies between the property line along a dedicated street and the actual wall line of the building or, if no building exists, to the rear property line. Such building wall lines extend outward from the corners of the buildings as illustrated in Attachment A.

Tree:

A perennial woody plant, single or multiple trunk, with few if any branches on its lower part, which at maturity will obtain a minimum six inch caliper.

Tree Preservation Permit:

An authorization by the City Arborist authorizing specific work as it relates to protected and mitigation tree(s).

Understory:

Assemblages of natural low level woody, herbaceous and ground cover species.

APPENDIX III

Sec. 35-C401. Tree Preservation Fees.

The following fees shall be placed in the General Fund:

(a) Basic Fees:	Inside City Limits		In the ETJ	
	<u>Residential</u>	<u>Commercial</u>	<u>Residential</u>	<u>Commercial</u>
(1) Affidavit Fee	\$10/lot	\$20/acre	\$15/lot	\$40/acre
(2) Plan Review Fee	\$10/lot	\$25	\$15/lot	\$50
(3) Tree Preservation Permit Permit cost not to exceed		\$50/acre \$1250 max		\$100/acre \$2500 max
(b) Other Fees:				
			<u>Cost</u>	
(1) Tree Certification Credit			\$100/Project	
(2) Appeal to Planning Commission			\$145	
(3) Appeal to City Council			\$145	
(4) Amendments to plans			\$30/hour	
(5) Warranty Inspection			\$100	
(6) Reinspection fee			\$25	

The following fees shall be placed in the Tree Mitigation and Replacement Fund:

Mitigation fund	\$100/inch
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APPENDIX IV

Tree Preservation Ordinance

New Activity to be Created: 29-02-09 (Environmental Review)

The following four positions are created:

- 1) City Arborist (New Classification, Salary Range: \$35,220 - \$52,836)
- 2) Assistant City Arborist (New Classification, Salary Range: \$30,420 - \$45,636)
- 3) Landscape Inspector (New Classification 0408, Salary Range: \$22,704 - \$34,056)
- 4) Administrative Assistant II (Classification 0041, Salary Range: \$22,704 - \$34,056)

Funds are appropriated from the General Fund as listed below:

Personnel Services:

01-010 Regular Salary and Wages	\$68,182
01-030 Retirement Benefits - Social Security	\$5,217
01-040 Retirement Benefits - TMRS	\$6,866
01-050 Flexible Benefits Contribution	\$9,312
01-051 Life Insurance	\$109
Total Personnel Service	\$89,686

Contractual Services:

02-110 Communications - Telephones	\$2,400
02-111 Communications - Radios	\$900
02-121 Rent of City Rolling Equipment	\$5,100
02-143 Maint. & Repair - Automotive	\$750
02-167 Vehicle Management Fee	\$300
02-178 Membership, Dues/Licenses	\$150
02-181 Binding, Printing & Reproduction	\$400
Total Contractual Services	\$10,000

Commodities:

03-210 Office Supplies	\$500
03-214 Clothing & Linen Supplies	\$1,800
03-222 Motor Fuel & Lubricants	\$1,500
03-232 Tools, Apparatus & Accessories	\$900
03-241 Maint. & Repair Materials - Auto	\$1,200
Total Commodities	\$5,900

Capital Outlay:

05-360 Computer Equipment	\$14,800
05-372 Mach. & Equip. - Auto	\$60,000
05-373 Mach. & Equip Other - Radio	\$03,000
05-375 Furniture & Fixtures	\$02,640
Total Capital Outlay	\$80,440

Total FY 1996-97	\$186,026
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